

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 114 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

DHANABHAI JETHABHAI ROHIT

Versus

STATE OF GUJARAT

Appearance:

MR KR RAVAL for Petitioner

MR.D.N.PATEL, ADDL.PUBLIC PROSECUTOR FOR THE STATE .

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.L.DAVE

Date of decision: 29/07/98

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The appellant - original accused No.1 seeks to challenge his conviction under Section 364 of the IPC and sentence of 10 years rigorous imprisonment, conviction under Section 365 of the IPC and sentence of 3 years rigorous imprisonment, conviction under Section 394 of

the IPC and sentence of 10 years rigorous imprisonment, conviction under Section 346 of the IPC with sentence of one months' simple imprisonment, conviction under Section 347 of the IPC with sentence of one years' rigorous imprisonment, conviction under Section 397 of the IPC with sentence of 7 years rigorous imprisonment, conviction under Section 307 of the IPC with sentence of 7 years' rigorous imprisonment and conviction under Section 302 of the IPC with the sentence of life term, under the judgement and order dated 31.1.1998 of the learned Additional Sessions Judge, Surat in Sessions Case No. 45 of 1996.

2. The prosecution version is that the appellant abducted witness Parvatiben, kept her in wrongful confinement and with a view to commit robbery and her murder, had taken her alongwith him on 27.12.1994, causing knife injuries to her on her abdomen and robbing her of her gold ear-rings, silver mangalsutra, cash amount and the keys of her cup-board and further that on 18.12.1994, the appellant again went to the house of Parvatiben to rob more ornaments and money and under a false representation that Parvatiben was at Kakarpada and wanted her father Chhaganbhai to go there with a sum of Rs. 2,000/- made Chhaganbhai accompany the appellant with that amount, and abducted him, intentionally caused his murder by giving him knife blows on his throat and also robbing him of the amount of Rs. 2,000/-, a gold ring worth Rs. 1500/- and a wrist watch worth Rs. 300/-.

3. The record and proceedings of the case are before us and we have been taken through all the material evidence having bearing on the case, by the learned Counsel appearing for the appellant.

4. The prosecution witness Parvatiben has, in her deposition at Ex.53, narrated all the material particulars which go to show that the appellant had inflicted knife injuries on her abdomen and had robbed her of the articles mentioned in the charge. These muddamal articles were seized at the instance of the accused. The fact that on the following day the appellant had again gone to the house of Parvatiben and by false representation he contrived a situation in which the complainant's father Chhaganbhai accompanied him with Rs. 2,000/-, is also clearly established.

5. From the evidence of witness Navabhai and witness Ramanbhai, it transpires that on 18.12.1994 when Navabhai

had gone to the house of Ramanbhai, he was told that there was a woman lying in the jungle of Kanbodi road with her intestines protruding. Parvatiben was thereafter picked up and this witness had come to know about the incident through Parvatiben. Again prosecution witness Ujabben has also deposed as what she was told by Parvatiben. Similarly, Parvatiben had also spoken about the incident to prosecution witness Chhanabhai.

6. The deposition of prosecution witness Chhanabhai, Jayeshkumar and Parvatiben also establishes that on the next day the appellant had again gone to the house of Parvatiben and under a false pretext that the complainant's father was required to go to her with a sum of Rs. 2,000/-, made Chhaganbhai accompany him and on the way the appellant robbed him and committed his murder.

7. On the question that Chhaganbhai was required by the appellant to take Rs. 2,000/- with him by stating that the complainant Parvatiben had asked him to do so and bring the amount, the prosecution witness Jayesh in his deposition at Ex.55 has clearly deposed that the appellant had on the next day i.e. on Sunday come again to their house and had said that his mother Parvatiben had asked him to convey that a sum of Rs. 2,000/- may be brought to her and therefore, his father Chhaganbhai and the appellant who was his maternal uncle started together after his father had borrowed a sum of Rs. 2,000/- from Dhirubhai. He has also stated that his father was having a wrist watch and a gold ring. This version has been rightly accepted by the trial Court. The circumstantial evidence that the appellant under a false pretext that Parvatiben had called her father with money and accompanying him coupled with the fact that he had on the earlier day injured and robbed Parvatiben which fact he did not disclose, shows that the appellant alone had committed the murder of Chhaganbhai.

8. The medical evidence clearly establishes that the death of Chhaganbhai was homicidal. On going through the record, we are satisfied that the trial Court has not committed any error in the appreciation of the evidence and has reached the right conclusion for valid reasons. Under these circumstances, there is absolutely no warrant for interfering with the impugned decision. The appeal is summarily dismissed.

* /Mohandas